UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED 08 MAR -3 PM 12:58
CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
BY ______ DEPUTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

Rigoberto CHAVEZ-Paniagua,

Defendant

Magistrate Docket No. '08 MJ 0648

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326
Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **March 1, 2008** within the Southern District of California, defendant, **Rigoberto CHAVEZ-Paniagua,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 3rd DAY OF **MARCH, 2008**

Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Rigoberto CHAVEZ-Paniagua

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On March 1, 2008, at approximately 2:30 a.m., while performing assigned duties, Border Patrol Agent R. McArdle responded to a radio call from Border Patrol Agent M. McCoy. Agent McCoy, who was the infrared scope operator, advised Agent McArdle that he had a visual on three individuals in an area commonly traveled by illegal aliens after illegally crossing into the United States. This area is approximately five miles east and two miles north of the Tecate, California Port of Entry. Upon arriving to the area, Agent McArdle encountered 17 individuals attempting to conceal themselves in some thick brush. Agent McArdle identified himself as a United States Border Patrol Agent and questioned all 17 individuals as to their citizenship. All 17 individuals, including one later identified as the defendant **Rigoberto CHAVEZ-Paniagua**, admitted to being citizens and nationals of Mexico illegally in the United States without proper documents allowing them to be in or remain in the United States legally. At 3:45 a.m., Agent McArdle placed the 17 individuals, including the defendant, under arrest and transported them to the Tecate Processing Center in Tecate, California.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **April 13, 2006** through **Calexico, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United Sates. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

Executed on March 2, 2008 at 9:00 a.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **1** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **March 1, 2008**, in violation of Title **8**, United States Code, Section **1326**.

Cathy A. Bencivengo
United States Magistrate Judge

3/2/08 @ 9:55 a.m.
Date/Time